

**Baker & Hostetler LLP**

45 Rockefeller Plaza  
New York, NY 10111  
Telephone: (212) 589-4200  
Facsimile: (212) 589-4201  
David J. Sheehan  
Keith R. Murphy  
Brian W. Song

*Attorneys for Irving H. Picard, Trustee for the  
Substantively Consolidated SIPA Liquidation of  
Bernard L. Madoff Investment Securities LLC  
and the Estate of Bernard L. Madoff*

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION  
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT  
SECURITIES LLC,

Defendant.

Adv. Pro. No. 08-01789 (SMB)

SIPA LIQUIDATION

(Substantively Consolidated)

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the Liquidation of  
Bernard L. Madoff Investment Securities LLC,

Plaintiff,

v.

D. STONE INDUSTRIES, INC. PROFIT  
SHARING PLAN; and DANIEL STONE,  
and SUSAN STONE, individually and in their  
capacities as trustees of D. Stone Industries, Inc.  
Profit Sharing Plan,

Defendants.

Adv. Pro. No. 10-05068 (SMB)

**STIPULATION AND ORDER FOR VOLUNTARY DISMISSAL OF  
ADVERSARY PROCEEDING WITH PREJUDICE AS TO SUSAN STONE  
AND WITHOUT PREJUDICE AS TO THE REMAINING DEFENDANTS**

Irving H. Picard (the “Trustee”), as trustee for the liquidation of the business of Bernard L. Madoff Investment Securities LLC (“BLMIS”) under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa, *et seq.* (“SIPA”), and the substantively consolidated estate of Bernard L. Madoff individually (“Madoff”), by and through his counsel Baker Hostetler LLP, and the remaining defendants, D. Stone Industries, Inc. Profit Sharing Plan, Daniel Stone, and Susan Stone (“Defendants,” together with the Trustee, the “Parties”), by and through their undersigned counsel, hereby stipulate and agree to the following:

1. On November 12, 2010, the Trustee commenced this adversary proceeding against, *inter alia*, Defendants.
2. On January 17, 2014, Defendants served an answer on the Trustee.
3. On April 9, 2018, the Trustee’s claims against Michael Stone were dismissed with prejudice.
4. Defendant Daniel Stone died on or about October 18, 2018.
5. In reliance on the representations made by Defendants’ counsel regarding the remaining assets of Defendants, including that the Defendant D. Stone Industries, Inc. Profit Sharing Plan was terminated, a final tax return was filed and the plan does not hold any assets, the Trustee in the exercise of his due and deliberate discretion has determined to dismiss the Adversary Proceeding without prejudice as to Defendants Daniel Stone and D. Stone Industries, Inc. Profit Sharing Plan and with prejudice as to Defendant Susan Stone.
6. In accordance with Federal Rule of Bankruptcy Procedure 7041, and Federal Rule of Civil Procedure 41(a)(1)(A)(ii), the Parties hereby stipulate to a dismissal without prejudice of

the Trustee's claims against Defendants Daniel Stone and D. Stone Industries, Inc. Profit Sharing Plan and with prejudice as to Defendant Susan Stone in the above-captioned adversary proceeding and dismissing the adversary proceeding.

7. The provisions of this Stipulation shall be binding upon and shall inure to the benefit of the Parties and their respective successors and assigns and upon all creditors and parties of interest.

8. This Stipulation may be signed by the Parties in any number of counterparts, each of which when so signed shall be an original, but all of which shall together constitute one and the same instrument. A signed facsimile, photostatic or electronic copy of this Stipulation shall be deemed an original.

Dated: April 10, 2019

**BAKER & HOSTETLER LLP**

**FREJKA PLLC**

By: /s/ Brian W. Song  
45 Rockefeller Plaza  
New York, New York 10111  
Telephone: 212.589.4200  
Facsimile: 212.589.4201  
David J. Sheehan  
Email: dsheehan@bakerlaw.com  
Keith R. Murphy  
Email: kmurphy@bakerlaw.com  
Brian W. Song  
Email: bsong@bakerlaw.com

*Attorneys for Plaintiff Irving H. Picard,  
Trustee for the Substantively Consolidated  
SIPA Liquidation of Bernard L. Madoff  
Investment Securities LLC and the Estate  
of Bernard L. Madoff*

By: /s/ Elise S. Frejka  
420 Lexington Avenue  
Suite 310  
New York, New York 10170  
Telephone: 212.641.0800  
Facsimile: 212.641.0820  
Elise S. Frejka  
Email: efrejka@frejka.com

*Attorneys for Defendants D. Stone  
Industries, Inc. Profit Sharing Plan, Daniel  
Stone (deceased), and Susan Stone*

**SO ORDERED**

**Dated: April 10<sup>th</sup>, 2019**  
**New York, New York**

/s/ STUART M. BERNSTEIN  
**HONORABLE STUART M. BERNSTEIN**  
**UNITED STATES BANKRUPTCY JUDGE**